

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHIJIN VAPOR LLC,

Plaintiff,

v.

BOLT USA, LLC,

Defendant.

Case No. 20-cv-05238-PJH

**ORDER RE DISCOVERY LETTER
BRIEF RE DISPOSITIVE MOTION
DEADLINE**

Re: Dkt. No. 52

Before the court is a discovery letter brief filed by the parties regarding the dispositive motion deadline in this case. See Dkt. 52. Specifically, defendant seeks to extend the dispositive motion hearing deadline from December 2, 2021 to January 6, 2022. Id. at 1. Defendant argues that the requested extension is necessary because the deposition transcript from its own Rule 30(b)(6) witness did not become available until November 19, even though the deposition was conducted on or before October 28. Id.

Plaintiff responds by arguing that defendant “fails to acknowledge that deposition transcripts can be ordered on a ‘rush’ basis” which would have made the transcript available within the first week of November. Dkt. 52 at 2. Plaintiff further argues that defendant “could have ordered a ‘rough’ draft of the transcript, which can generally be returned within 24 hours.” Id. Plaintiff points out that defendant’s counsel instead “ordered the transcripts on the normal turnaround time, which supports plaintiff’s position that defendant simply forgot about the dispositive motion deadline.” Id.

The court agrees with plaintiff that defendant has failed to demonstrate good cause for its requested extension. As plaintiff points out, defendant could have ordered

1 the Rule 30(b)(6) deposition transcript on a rough or rush basis. Moreover, to the extent
2 that defendant sought to use testimony from its own Rule 30(b)(6) witness, it could have
3 obtained a declaration to supplement the evidence that it already had – namely, the
4 “documents and discovery produced to date in this matter as well as counsel’s notes from
5 the depositions taken” that defendant used to draft its dispositive motions. See Dkt. 52 at
6 1.

7 In short, the court finds that defendant has not shown good cause for modifying
8 the dispositive motion deadline in this case. See Dkt. 32 at 7 (“No provision of this order
9 may be changed except by written order of this court . . . with a showing of good cause.”).
10 In addition, based on the current trial date of April 4, 2022, defendant’s requested
11 dispositive motion hearing date would violate this court’s standing order, which requires
12 that “all dispositive motions are heard no later than 120 days before trial.” See id. at 2.

13 However, the court is unavailable on the currently-scheduled trial date, so the trial
14 date will need to be rescheduled. As a result, even though defendant has not shown
15 good cause for its requested extension, the court will nevertheless modify the dispositive
16 motion deadline so that issues may be heard and potentially narrowed before trial.

17 The court will conduct a case management conference by videoconference on
18 **December 16, 2021 at 2:00pm** to set a new dispositive motion hearing date and trial
19 date.

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21 **IT IS SO ORDERED.**

22 Dated: December 1, 2021

23 /s/ Phyllis J. Hamilton
24 PHYLLIS J. HAMILTON
25 United States District Judge
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